



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-820]

Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico: Final Results of the 2019-2020 Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) continues to find that the respondents selected for individual examination, Bioparques De Occidente, S.A. de C.V. and its affiliates (Bioparques), Del Campo Y Asociados SA de CV and its affiliates (Del Campo), and Productora Agricola Industrial del Noroeste, SA de CV and its affiliates (Productora Agricola), (collectively mandatory respondents), were generally in compliance with the terms of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (2019 Agreement) during the period of review (POR) from September 19, 2019, through August 31, 2020, with the exception of certain instances of non-compliance. Commerce continues to find such instances of non-compliance to be inconsequential and/or inadvertent, and thus not violations under the 2019 Agreement, and that the 2019 Agreement is meeting the statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2021, Commerce published the *Preliminary Results* of this administrative review.¹ On October 8, 2021, Commerce issued questionnaires in lieu of on-site verification to each of the respondents,² to which each respondent filed its response on October 18, 2021.³ On October 21, 2021, Commerce set the briefing schedule.⁴ On November 16, 2021, a member of the U.S. petitioning industry, the Florida Tomato Exchange (FTE), and Del Campo,⁵ filed case briefs,⁶ and on November 24, 2021, each of the mandatory respondents filed a rebuttal brief.⁷ On January 18, 2022, Commerce extended the deadline for the final results to March 30, 2022.⁸

Scope of 2019 Agreement

The merchandise subject to this 2019 Agreement is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this 2019 Agreement, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. In Appendix F of this 2019 Agreement, Commerce has outlined the procedure that Signatories must follow for selling subject merchandise for processing. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), are covered by

¹ See *Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico; Preliminary Results of 2019–2020 Administrative Review*, 86 FR 54424 (October 1, 2021) (*Preliminary Results*).

² See Commerce’s Letters, “In Lieu of On-Site Verification Questionnaire for Productora Agrícola Industrial del Noroeste, SA de CV and its Affiliates,” dated October 8, 2021; “In-Lieu of On-Site Verification Questionnaire for Bioparques de Occidente, S.A. de C.V. and its Affiliates,” dated October 8, 2021; and “In-Lieu of On-Site Verification Questionnaire for Del Campo Y Asociados, S.A. de C.V.,” dated October 8, 2021.

³ See Productora Agrícola’s Letter, “Response of Productora Agrícola Industrial del Noroeste, S.A. de C.V. to the Department’s October 8, 2021 In Lieu of On-Site Verification Questionnaire,” dated October 18, 2021; Bioparques’ Letter, “Response of Bioparques de Occidente, S.A. de C.V. to the Department’s October 8, 2021 In Lieu of On-Site Verification Questionnaire,” dated October 18, 2021; and Del Campo’s Letter, “Response of Del Campo Y Asociados, S.A. de C.V. to the Department’s October 8, 2021 In Lieu of On-Site Verification Questionnaire,” dated October 18, 2021.

⁴ See Memorandum, “Briefing Schedule,” dated October 21, 2021.

⁵ See Del Campo’s Letter, “Case Brief of Del Campo Y Asociados, S.A. de C.V.,” dated November 16, 2021.

⁶ See FTE’s Letter, “Case Brief on Behalf of the Florida Tomato Exchange,” dated November 16, 2021.

⁷ See Del Campo’s Letter, “Rebuttal Brief of Del Campo Y Asociados, S.A. de C.V.,” dated November 24, 2021; Bioparques’ Letter, “Rebuttal Brief of Bioparques de Occidente, S.A. de C.V.,” dated November 24, 2021; and Productora Agrícola’s Letter, “Rebuttal Brief of Productora Agrícola Industrial del Noroeste, S.A. de C.V.,” dated November 24, 2021.

⁸ See Memorandum, “Extension of Deadline for Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (2019 Agreement),” dated January 18, 2022.

this 2019 Agreement. Commercially grown tomatoes, both for the fresh market and for processing, are classified as *Lycopersicon esculentum*. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this 2019 Agreement. Tomatoes imported from Mexico covered by this 2019 Agreement are classified under the following subheading of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702. Although this HTSUS number is provided for convenience and customs purposes, the written description of the scope of this Agreement is dispositive.

A full description of the scope of the order is also contained in the Issues and Decision Memorandum.⁹

Analysis

Commerce continues to find, based on record evidence, that the selected respondents, Bioparques, Del Campo and Productora Agricola, were generally in compliance with the terms of the 2019 Agreement during the POR, with the exception of certain non-compliance which Commerce continues to find inconsequential and inadvertent. Therefore, Commerce finds that there have been no material or consequential violations of the 2019 Agreement by the selected respondents during the POR. We also determine that the 2019 Agreement is preventing price suppression or undercutting and can be effectively monitored.

The issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum and business proprietary memoranda.¹⁰ The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is

⁹ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico, for the period September 19, 2019, through August 31, 2020,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹⁰ See Issues and Decision Memorandum; *see also* Memorandum, “Final Analysis of Proprietary Information and Argument Regarding Bioparques de Occidente, S.A. de C.V. and its Affiliates,” dated concurrently with this memorandum; Memorandum, “Final Analysis of Proprietary Information and Argument Regarding Del Campo Asociados and Its Affiliates,” dated concurrently with this memorandum; and Memorandum, “Final Analysis of Proprietary Information and Argument Regarding Productora Agricola Industrial del Noroeste, SA de CV and its Affiliates,” dated concurrently with this memorandum. These memoranda are hereby adopted by this notice.

on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision

Memorandum can be accessed directly at

<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: March 25, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

APPENDIX

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Scope of the Agreement
- III. Background
- IV. Discussion of the Issue
 - 1. Alleged Possible Violations of the 2019 Agreement
 - 2. Normal Value Adjustment to Account for Differences in Physical Characteristics
 - 3. Reconciliation of U.S. Sales at Verification with Respect to Bioparques
 - 4. Movement Expenses in Del Campo's Sample Dumping Calculation
- V. Recommendation

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